HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.1892 of 2007

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Between:

Association of Public Prosecutors (Cadre),
Andhra Pradesh, represented by its President,
Dr.J.Prasangi, Hyderabad. ...
Petitioner.

And

Government of Andhra Pradesh,
represented by its Principal Secretary,
General Administration (GAD) Department,
Secretariat, Hyderabad and others. ...
Respondents.

:: O R D E R ::

Counsel for the petitioner : Sri K.Venumadhav

2nd February, 2007

Per G.S. SINGHVI, C.J.

In this petition, the petitioner – Association of Public Prosecutors (Cadre), Andhra Pradesh has prayed for striking down Rule 3(5)(ii) of the Andhra Pradesh State Prosecution Service Rules, 1992 (for short, 'the Rules') and for issue of a mandamus to the respondents to appoint Additional Public

Prosecutors in accordance with Section 24 (6) of the Code of Criminal Procedure, 1973 (for short, 'CrPC').

We have heard Sri K.Venumadhav, learned counsel for the petitioner and perused the record. In our opinion, the writ petition is liable to be dismissed summarily because,

i) the petitioner has not been able to establish its locus to challenge the vires of the impugned rule which has been framed by the Governor in exercise of his power under proviso to Article 309 of the Constitution of India read with Sections 24 and 25 of CrPC. It is neither the pleaded case of the petitioner nor any material has been produced before the Court to show that the impugned rule adversely affect its members who are serving as Assistant Public Prosecutors;

ii) Dr. Prasangi, Senior Assistant Public Prosecutor, who has described himself as President of the Association has not filed any document to show that the competent body of the Association has authorized him to file the writ petition;

iii) It is also not the pleaded case of the petitioner that the Assistant Public Prosecutors who are eligible for appointment as Additional Public Prosecutors by promotion are, on account of lack of knowledge, awareness of their rights or any other disability or handicap, unable to seek intervention of the Court for vindication of their rights, legal or constitutional.

Even if we were to assume that the petitioner has the locus standi to question the vires of Rule 3(5)(ii) of the Rules and Dr.Prasangi has been duly authorized to file writ petition on behalf of the petitioner association, no substantive relief can be granted in terms of the prayer made, because the writ

petition is conspicuously silent on several important aspects. The petitioner has not given the particulars of the Assistant Public Prosecutors who are eligible to be considered for promotion to the cadre of Additional Public Prosecutors. The total number of posts available in the cadre of Additional Public Prosecutors has also not been given. Even this much has not been stated that the members constituting the cadre of Assistant Public Prosecutor will not get promotion against the 70% quota.

For the reasons stated above, the writ petition is dismissed. However, it is made clear that this order will not preclude any aggrieved members of the cadre of Assistant Public Prosecutors to file independent petition to question the vires of the impugned Rule or seek protection of his legal or constitutional rights.

As a sequel to dismissal of the writ petition, WPMP.No.2384 of 2007 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, C.J.

2nd February, 2007

C.V.NAGARJUNA REDDY, J.

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